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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,615	09/22/2000	Karl Hehl	REP-0010-C	1449

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EXAMINER

MACKEY, JAMES P

ART UNIT PAPER NUMBER

1722

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,615

Applicant(s)

HEHL, KARL

Examiner

James Mackey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 5 only recites ("variably fixing ... includes alternate actuation") how the apparatus structure is intended to operate during its intended operation; such relates only to the intended use of the claimed apparatus and does not structurally distinguish the claimed apparatus structure, and therefore does not further limit the subject matter of apparatus claims. Note that it has been held that the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235.

2. Claims 4 and 5 are objected to because of the following informalities: claim 4, lines 2-3, "that the parts" is grammatically incorrect; and claim 5, lines 1-2, "variably fixing the spacing and of the fixing device" is grammatically incorrect. Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is indefinite as to how a piston rod of the drive which moves the movable mold carrier may **also** function as the **plural** guide elements for guiding movement of the movable mold carrier as claimed in claim 1 (and especially wherein the device for variably fixing the

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spacing between the stationary and movable mold carriers cooperates with a portion of each of the **plural** guide elements).

Claim 15 is indefinite as to how the force transmission element opposite end, which is "associated with the moveable mold carrier", relates to and cooperates with the support element as claimed in claim 1. Moreover, claim 15 is inaccurate with respect to the device for variably fixing (which is disposed at the opposite end of the force transmission element) cooperating with portions of **plural** guide elements, since (as clearly shown in Figure 8) portion 26a of the piston rod of the drive functions as a single guide element; note that in order to satisfy the requirements of 35 USC 112, second paragraph, a claim must accurately define the invention, *In re Knowlton*, 178 USPQ 486, 492-3.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

~~(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.~~

6. Claims 1-3, 11 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Snider et al. (U.S. Patent 3,669,599).

Snider et al. teach a mold closing unit as claimed, including a device 66, 74 mounted on the support element 16 and cooperating with a portion of the tie rod/guide elements 18 for variably fixing the spacing between the stationary mold carrier 14 and the movable mold carrier 20, a fixing device 116 on the movable mold carrier for fixing its position, and a two-part linear drive 22 to move the movable mold carrier toward and away from the stationary mold carrier.

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7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Grundmann (U.S. Patent 3,890,081).

Grundmann teaches a mold closing unit as claimed, including two-part linear drive 47, 49 extending between the movable mold carrier 18 and the support element 22, fixing device 50, 53 for fixing the movable mold carrier in position, and a device 42, 45 cooperating with portions of the guide elements 20 for variably fixing the spacing between the stationary and movable mold carriers.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-10 and 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider et al. (U.S. Patent 3,669,599).

Snider et al. teach a mold closing unit as claimed, including a device 66, 74 mounted on the support element 16 and cooperating with a portion of the tie rod/guide elements 18 for variably fixing the spacing between the stationary mold carrier 14 and the movable mold carrier 20, a fixing device 116 on the movable mold carrier for fixing its position, and a two-part linear drive 22 to move the movable mold carrier toward and away from the stationary mold carrier, except for the drive being an electromechanical drive (claim 4), except for the particular collet chuck clamping device as the device for variably fixing the spacing (claims 6-10) and except for the particular collet chuck for the fixing device (claim 13). However, such clamping chucks are conventional in the art, and it would have been obvious to one of ordinary skill in the art at the

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time of the invention to modify Snider et al. by providing such conventional chucks for the same purpose of providing a clamping/fixing engagement between the cooperating structural elements. It would have been further obvious and well within the level of ordinary skill in the art to have provided the two-part linear drive as a well known and conventional electromechanical screw/nut drive, since such were equivalent drive means.

10. Applicant's arguments filed 13 January 2003 have been fully considered but they are not persuasive.

Applicant argues that neither Snyder et al. nor Grundmann disclose the use of one drive for operating the injection process and for adjusting the mold height; however, such relates only to the intended use of the claimed apparatus structure, which does not structurally distinguish the apparatus claims from the prior art structures having each of the structural elements of the claimed apparatus. Note that intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530; the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235; a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *Ex parte Masham*, 2 USPQ2d 1647. Moreover, the claims are written in open ("comprising") terminology, such that the instant claims do not preclude additional drive means for adjusting the mold height; indeed, such additional drive means are disclosed in the instant specification at page 9, lines 19-22 (gear driven nuts to displace the support element along the guide elements, which appear quite similar to the structures of Snyder et al. and Grundmann).

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Applicant argues that the blocking means of both Snyder et al. and Grundmann (corresponding to the claimed fixing device) are used in every injection cycle; however, such relates only to the intended use of the claimed apparatus structure, which does not structurally distinguish the apparatus claims from the prior art structures having each of the structural elements of the claimed apparatus.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

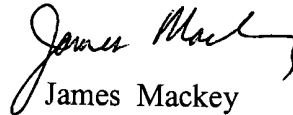
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After-Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



James Mackey
Primary Examiner
Art Unit 1722

3/16/03

jpm
March 16, 2003